

82-3-110. Repealed. Sec. 21, Ch. 550, L. 1979.
History: En. Sec. 10, Ch. 220, L. 1973; R.C.M. 1947, 50-1409.

Part 2 Coal Invoices (Repealed)

82-3-201. Repealed. Sec. 1, Ch. 24, L. 1997.
History: En. Sec. 1, Ch. 104, L. 1927; re-en. Sec. 3546.1, R.C.M. 1935; R.C.M. 1947, 50-601.

82-3-202. Repealed. Sec. 1, Ch. 24, L. 1997.
History: En. Sec. 2, Ch. 104, L. 1927; re-en. Sec. 3546.2, R.C.M. 1935; R.C.M. 1947, 50-602.

82-3-203. Repealed. Sec. 1, Ch. 24, L. 1997.
History: En. Sec. 4, Ch. 104, L. 1927; re-en. Sec. 3546.4, R.C.M. 1935; amd. Sec. 117, Ch. 431, L. 1975; R.C.M. 1947, 50-604; amd. Sec. 2, Ch. 274, L. 1981.

82-3-204. Repealed. Sec. 1, Ch. 24, L. 1997.
History: En. Sec. 6, Ch. 104, L. 1927; re-en. Sec. 3546.6, R.C.M. 1935; amd. Sec. 118, Ch. 431, L. 1975; R.C.M. 1947, 50-606; amd. Sec. 2, Ch. 274, L. 1981.

82-3-205. Repealed. Sec. 1, Ch. 24, L. 1997.
History: En. Sec. 5, Ch. 104, L. 1927; re-en. Sec. 3546.5, R.C.M. 1935; R.C.M. 1947, 50-605; amd. Sec. 80, Ch. 10, L. 1993.

CHAPTER 4 RECLAMATION

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(4) Any person who is injured in person or property through the violation by any operator of any rule, order, or permit issued pursuant to this part may bring an action for damages, including reasonable attorney and expert witness fees, only in the county in which the strip- or underground-coal-mining operation complained of is located. This subsection does not affect the rights established by or limits imposed under Title 39, chapter 71.

(5) The court, in issuing any final order in any action brought pursuant to subsection (3), may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines that the award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Montana Rules of Civil Procedure.

History: En. Sec. 22, Ch. 325, L. 1973; amd. Sec. 1, Ch. 295, L. 1975; amd. Sec. 29, Ch. 441, L. 1975; R.C.M. 1947, 50-1055(1), (2); amd. Sec. 3, Ch. 201, L. 1979; amd. Sec. 16, Ch. 550, L. 1979; amd. Sec. 192, Ch. 575, L. 1981; amd. Sec. 30, Ch. 361, L. 2003.

Cross-References

Knowingly defined, 1-1-204, 45-2-101.

Rules for determining residency, 1-1-215.

Contempts, Title 3, ch. 1, part 5.

Injunctions, Title 27, ch. 19.

Mandamus, Title 27, ch. 26.

82-4-253. Suit for damage to water supply. (1) An owner of an interest in real property who obtains all or part of a supply of water for domestic, agricultural, industrial, or other legitimate use from an underground source other than a subterranean stream having a permanent, distinct, and known channel may sue an operator to recover damages for contamination, diminution, or interruption of the water supply, proximately resulting from strip mining or underground mining.

(2) Prima facie evidence of injury in a suit under this section is established by the removal of coal or disruption of overlying aquifer from designated ground water areas as prescribed in Title 85, chapter 2, part 5. If the area is not a designated ground water area, a showing that the coal or overlying strata is an aquifer in that geographical location and that the coal or the overlying strata has been removed or disrupted shifts the burden to the defendant (operator) to show that the plaintiff's (owner's) water supply was not injured thereby.

(3) An owner of water rights adversely affected may file a complaint detailing the loss of water in quality and quantity with the department. Upon receipt of this complaint the department shall:

(a) investigate the complaint using all available information including monitoring data gathered at the mine site;

(b) require the defendant (operator) to install monitoring wells or other practices that may be needed to determine the cause of water loss, if there is a loss, in terms of quantity or quality;

(c) issue within 90 days a written finding specifying the cause of the water loss, if there is a loss, in terms of quantity or quality;

(d) order the mining operator in compliance with chapter 2 of Title 85 to replace the water immediately on a temporary basis to provide the needed water and within a reasonable time replace the water in like quality, quantity, and duration, if the loss is caused by the surface coal mining operation; and

(e) order the suspension of the operator's permit for failure to replace the water, until such time as the operator provides substitute water.

(4) A servient tract of land is not bound to receive surface water contaminated by strip mining or underground mining on a dominant tract of land, and the owner of the servient tract may sue an operator to recover the damages proximately resulting from the natural drainage from the dominant tract of surface waters contaminated by strip mining or underground mining on the dominant tract.

(5) This section and 82-4-252 do not create, modify, or affect any right, liability, or remedy other than as expressly provided.

History: En. Sec. 22, Ch. 325, L. 1973; amd. Sec. 1, Ch. 295, L. 1975; amd. Sec. 29, Ch. 441, L. 1975; R.C.M. 1947, 50-1055(3) thru (5); amd. Sec. 293, Ch. 42, L. 1997.

Cross-References

Damages, Title 27, ch. 1, part 2.

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(1) If the department disapproves the application for release of the bond or a portion of the bond, it shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release and allowing opportunity for a public hearing.

(m) When an application for total or partial bond release is filed with the department, it shall notify the municipality or county in which a prospecting or mining operation is located by certified mail at least 30 days prior to the release of all or a portion of the bond.

(7) All disturbed areas must be reclaimed in a timely manner to conditions that are equal to or better than the original conditions of the land. ~~of supporting the land uses that they were capable of supporting prior to any mining or to the land~~ ~~operator uses as approved pursuant to subsection (8).~~

(8) (a) An operator may propose a higher or better use as an alternative postmining land use. If the landowner is not the operator, the operator shall submit written documentation of the concurrence of the landowner or the land management agency with jurisdiction over the land. The department may approve the proposed alternative postmining land use only if it meets all of the following criteria:

- (i) There is a reasonable likelihood for achievement of the alternative land use.
- (ii) The alternative land use does not present any actual or probable hazard to the public health or safety or any threat of water diminution or pollution.
- (iii) The alternative land use will not:
 - (A) be impractical or unreasonable;
 - (B) be inconsistent with applicable land use policies or plans;
 - (C) involve unreasonable delay in implementation; or
 - (D) cause or contribute to violation of federal, state, or local law.
- (b) As used in this section, the term "landowner" includes a person who has sold the surface estate to the operator with an option to repurchase the surface estate after mining and reclamation are complete.

(9) The reclamation plan must incorporate appropriate wildlife habitat enhancement features that are integrated with cropland, grazing land, pastureland, land occasionally cut for hay, or other uses in order to enhance habitat diversity, with emphasis on big game animals, game birds, and threatened and endangered species that have been documented to live in the area of land affected, and to enhance wetlands and riparian areas along rivers and streams and bordering ponds and lakes. Incorporation of wildlife habitat enhancement features does not constitute a change in land use to fish and wildlife habitat and may not interfere with the designated land use.

(10) Facilities existing prior to mining, including but not limited to public roads, utility lines, railroads, or pipelines, may be replaced as part of the reclamation plan.

History: En. Sec. 11, Ch. 325, L. 1973; am. Sec. 23, Ch. 441, L. 1975; am. Sec. 3, Ch. 352, L. 1977; R.C.M. 1947, 50-1044; am. Sec. 1, Ch. 172, L. 1979; am. Sec. 12, Ch. 550, L. 1979; am. Sec. 1, Ch. 288, L. 1985; am. Sec. 143, Ch. 370, L. 1987; am. Sec. 374, Ch. 418, L. 1995; am. Sec. 292, Ch. 42, L. 1997; am. Sec. 6, Ch. 204, L. 2003; am. Sec. 7, Ch. 127, L. 2005; am. Sec. 1, Ch. 425, L. 2007.

Compiler's Comments

Contingent Voidness: Section 2, Ch. 425, L. 2007, provided: "(1) If the provisions of [this act] are disapproved by the United States secretary of the interior pursuant to 30 CFR 732.17, then [this act] is void.

(2) Within 15 days of the effective date of a disapproval pursuant to subsection (1), the department of environmental quality shall notify the code commissioner certifying that the disapproval has occurred."

Cross-References

Water quality control, Title 75, ch. 5.

Policy — findings, 82-4-202.

Bond required, 82-4-223.

Release of remaining bond, 82-4-235.

82-4-233. Planting of vegetation following grading of disturbed area. (1) The



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ARM TITLE 17

Chapter 24 Reclamation

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- [Sub-Chapter 2](#) Rules and Regulations Governing the Opencut Mining Act
- [Sub-Chapter 3](#) ~~Strip and Underground Mine Reclamation Act:~~ Definitions and Strip Mine Permit Application Requirements
- [Sub-Chapter 4](#) Strip and Underground Mine Reclamation Act: Mine Permit and Test Pit Prospecting Permit Procedures
- [Sub-Chapter 5](#) Strip and Underground Mine Reclamation Act: Backfilling and Grading Requirements
- [Sub-Chapter 6](#) ~~Strip and~~ Underground Mine Reclamation Act: Transportation Facilities, Use of Explosives, and Hydrology
- [Sub-Chapter 7](#) Strip and Underground Mine Reclamation Act: Topsoiling, Revegetation, and Protection of Wildlife and Air Resources
- [Sub-Chapter 8](#) Strip and Underground Reclamation Act: Alluvial Valley Floors, Prime Farmlands, Alternate Reclamation, and Auger Mining
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- [Sub-Chapter 13](#) Strip and Underground Mine Reclamation Act: Miscellaneous Provisions
- [Sub-Chapter 14](#) Reserved
- [Sub-Chapter 15](#) Reserved
- [Sub-Chapter 16](#) Reserved
- [Sub-Chapter 17](#) Reserved
- [Sub-Chapter 18](#) Rules and Regulations Governing the Montana Strip and Underground Mine ~~Striping~~ Act

Questions or Comments: Contact the Rule Coordinator at (406) 444-2630

Sub-Chapter 8

Strip and Underground Reclamation Act:
Alluvial Valley Floors, Prime Farmlands, Alternate
Reclamation, and Auger Mining

17.24.801 ALLUVIAL VALLEY FLOORS: PRESERVATION OF
ESSENTIAL HYDROLOGIC FUNCTIONS AND PROTECTION OF FARMING

(1) Strip or underground coal mining operations must be conducted to preserve, throughout the mining and reclamation process, the essential hydrologic functions of alluvial valley floors not within a permit area. These functions must be preserved by maintaining those geologic, hydrologic and biologic characteristics that support those functions.

(2) Strip or underground coal mining and reclamation operations must be conducted to reestablish, throughout the mining and reclamation process, the essential hydrologic functions of alluvial valley floors within an area of land affected. These functions must be reestablished by reconstructing those geologic, hydrologic and biologic characteristics that support those functions.

(3) Strip or underground coal mining operations must be conducted to ensure that the agricultural utility and the level of productivity of alluvial valley floors in affected areas are reestablished to premining levels. (History: 82-4-204, MCA; IMP, 82-4-227, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

17.24.802 ALLUVIAL VALLEY FLOOR: PROTECTION OF FARMING AND
PREVENTION OF MATERIAL DAMAGE (1)(a) Strip or underground coal mining operations must not interrupt, discontinue, or preclude farming on alluvial valley floors, unless:

(i) the premining land type is undeveloped rangeland that is not significant to farming; or

(ii) the area of affected alluvial valley floor is small and provides or may provide negligible support for production from one or more farms.

(b) If environmental monitoring shows that a strip or underground coal mining operation is interrupting, discontinuing, or precluding farming on alluvial valley floors, the operation must cease until remedial measures are taken by the operator. The remedial measures must be approved by the department prior to the resumption of mining.

(2) Strip or underground coal mining and reclamation operations must not cause material damage to the quality or quantity of water in surface or underground water systems that supply alluvial valley floors. If environmental monitoring shows that the strip or underground coal mining operation is

causing material damage to water that supplies alluvial valley floors, the mining operations must cease until remedial measures are taken by the operator. The remedial measures must be approved by the department prior to the resumption of mining operations.

(3) Sections (1) and (2) of this rule do not apply to those lands which were identified in a reclamation plan approved by the department before August 3, 1977, for any strip or underground coal mining and reclamation operation that, in the year preceding August 3, 1977:

(a) produced coal in commercial quantities and was located within or adjacent to an alluvial valley floor, or

(b) obtained specific permit approval by the department to conduct strip or underground coal mining and reclamation operations within an alluvial valley floor. (History: 82-4-204, MCA; IMP, 82-4-227, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

Rule 17.24.803 reserved

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17.24.643 GROUND WATER PROTECTION (1) Mining must be conducted to control the effects of drainage from pits, cuts, and other mining activities and disturbances. The permittee shall prevent or control discharge of acid, toxic, or otherwise harmful mine drainage waters into ground water flow systems so that adverse impacts on ground water flow systems and on approved postmining land uses are prevented.

(2) Backfilled materials must be placed to minimize adverse effects on ground water flow and quality, to minimize off-site effects, and to support the approved postmining land use. The permittee is responsible for performing monitoring according to ARM 17.24.645 to ensure that operations conform to this requirement. (History: 82-4-204, MCA; IMP, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.644 PROTECTION OF GROUND WATER RECHARGE (1) The disturbed area ~~must~~ be reclaimed to restore the approximate premining recharge capacity through restoration of the capability of the reclaimed areas as a whole to transmit water to the ground water system. The recharge capacity must be restored to support the approved postmining land use, minimize disturbances to the prevailing hydrologic balance in the mine plan and adjacent areas, and provide a rate of recharge that approximates the premining recharge rate. The permittee shall monitor according to ARM 17.24.645 to ensure operations conform to this requirement.

(2) The permittee shall collect data and conduct studies as requested by the department to determine whether the recharge capacity of the mined lands can be restored to the approximate premining recharge capacity. (History: 82-4-204, MCA; IMP, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

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17.24.645 GROUND WATER MONITORING (1) Ground water levels, subsurface flow and storage characteristics, and the quality of ground water must be monitored based on information gathered pursuant to ARM 17.24.304 and the monitoring program submitted pursuant to ARM 17.24.314 and in a manner approved by the department to determine the effects of strip or underground mining operations on the recharge capacity of reclaimed lands and on the quantity and quality of water in ground water systems in the permit and adjacent areas. When operations may affect the ground water system, ground water levels and ground water quality must be periodically monitored using wells that can adequately reflect changes in ground water quantity and quality resulting from such operations.

(2) Monitoring must:

(a) include the measurement of the quantity and quality of water in all disturbed or potentially affected geologic strata within and adjacent to the permit area. Affected strata are all those adjacent to or physically disturbed by mining disturbance and any aquifers below the base of the spoils that could receive water from or discharge water to the spoils. Monitoring must be of sufficient frequency and extent to adequately identify changes in ground water quantity and quality resulting from mining operations; and

(b) be adequate to plan for modification of strip or underground mining operations, if necessary, to minimize disturbance of the prevailing hydrologic balance.

(3) The department may require the permittee to expand the ground water monitoring system whenever a significant impact to the hydrologic balance of the permit and adjacent area is likely and the expanded monitoring is needed to adequately monitor the ground water system. As specified and approved by the department, additional observations and analyses, such as infiltration tests and aquifer tests, must be undertaken by the permittee to demonstrate compliance with this rule.

(4) Whenever an applicant demonstrates by the use of the probable hydrologic consequences determination (see ARM 17.24.314) and other available information that a particular water bearing stratum in the proposed permit or adjacent areas does not have a significant role in maintaining the hydrologic balance within the cumulative impact area, the department may waive monitoring of that stratum.

(5) Ground water monitoring must proceed through mining and continue until phase IV bond release. The department may allow modification of the monitoring requirements, except those required by the Montana pollutant discharge elimination system permit, including the parameters covered and sampling frequency, if the operator or the department demonstrates, using the monitoring data obtained under this rule, that:

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(a)(i) the operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area;

(ii) water quantity and quality are suitable to support approved postmining land uses; and

(iii) the water rights of other users have been protected or replaced;

(b) monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under this rule; or

(c) with regard to monitoring related to an alluvial valley floor, monitoring of the essential hydrologic function of the alluvial valley floor is ensured under the modified program.

(6) Methods of sample collection, preservation and sample analysis must be conducted in accordance with 40 CFR Part 136 titled "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (July 2003) and the department's document titled "Circular WQB-7, Montana Numeric Water Quality Standards", January 2004 edition. Copies of Circular WQB-7 are available at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Sampling and analyses must include a quality assurance program acceptable to the department.

(7) Whenever monitoring reveals noncompliance with the permit, the Act, or the rules adopted thereunder, the permittee shall immediately take steps to minimize adverse effects. Those steps include, but are not limited to, accelerated or additional monitoring, abatement, and warning of all persons whose health or safety is in imminent danger. The permittee shall, within five days of discovery of noncompliance, notify the department of noncompliance and remedial measures taken.

(8) Results of ground water monitoring activities must be reported to the department semiannually, and all monitoring data must be maintained on a current basis for inspection at the mine office. Any sample results indicating a permit violation must be reported to the department within five days of receipt of results. (History: 82-4-204, MCA; IMP, 82-4-231, 82-4-232, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1994 MAR p. 2957, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99; AMD, 1999 MAR p. 2768, Eff. 12/3/99; AMD, 2004 MAR p. 2548, Eff. 10/22/04.)

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17.24.646

17.24.646 SURFACE WATER MONITORING (1) Surface water monitoring must be based on information submitted pursuant to ARM 17.24.304 and must be conducted in accordance with the monitoring program submitted under ARM 17.24.314 and approved by the department. Monitoring must:

(a) be adequate to measure accurately and record water quantity and quality of all discharges from the permit area;

(b) in all cases in which analytical results of the sample collections indicate noncompliance with a permit condition or an applicable standard, result in the operator immediately taking appropriate remedial measures. Within five days of the discovery of the noncompliance, the operator shall notify the department of the noncompliance and of the remedial measures taken and shall comply with (6). These remedial measures include, but are not limited to, accelerated or additional monitoring, abatement, and warning of all persons whose health and safety is in imminent danger. Whenever a violation of a Montana pollutant discharge elimination system (MPDES) permit occurs, the operator shall forward the analytic results concurrently with the written notice of noncompliance;

(2) The operator shall submit semi-annual reports including analytical results from each sample taken during the semester to the department. In addition, all monitoring data must be maintained on a current basis for review at the minesite. Any sample results that indicate a permit violation must be reported immediately to the department. However, whenever the discharge for which water monitoring reports are required is also subject to regulation by a MPDES permit and that permit requires filing of the water monitoring reports within 90 days or less of sample collection, the operator shall submit to the department on the time schedule required by the MPDES permit or within 90 days following sample collection, whichever is earlier, a copy of the completed reporting form filed to meet MPDES permit requirements.

(3) Monitoring must be conducted at appropriate frequencies to measure normal and abnormal variations in concentrations.

(4) After disturbed areas have been regraded and stabilized according to ARM 17.24.501, the operator shall monitor surface water flow and quality. Data from this monitoring must be used to determine whether the quality and quantity of runoff without treatment is consistent with the requirements of this rule to minimize disturbance to the prevailing hydrologic balance, to demonstrate that the drainage

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basin has stabilized to its previous, undisturbed state, and to attain the approved postmining land use. These data must also be used by the department to review requests for removal of water quality or flow control systems and for bond release. With department approval, other information or methods, such as models, may be used, in conjunction with monitoring data, for these purposes.

(5) Equipment, structures, and other devices necessary to measure and sample accurately the quality and quantity of surface water discharges from the disturbed area must be properly installed, maintained, and operated and must be removed when no longer required.

(6) Methods of sample collection, preservation and sample analysis must be conducted in accordance with 40 CFR Part 136 titled "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (July 2003) and Part 434 titled "Coal Mining Point Source Category BPT, BAT, BCT Limitations and New Source Performance Standards" (January 2002), and the January 2004 version of the department's document titled "Circular WQB-7, Montana Numeric Water Quality Standards". Copies of 40 CFR Part 136, 40 CFR 434, and Circular WQB-7 are available at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Sampling and analyses must include a quality assurance program acceptable to the department.

(7) Surface water monitoring must proceed through mining and continue until phase IV bond release. The department may allow modification of the monitoring under the same criteria as are contained in ARM 17.24.645(5). (History: 82-4-204, MCA; IMP, 82-4-231, 82-4-232, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1994 MAR p. 2957, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99; AMD, 2004 MAR p. 2548, Eff. 10/22/04.)

17.24.647 TRANSFER OF WELLS (1) With prior approval of the department, the permittee may allow the surface owner to use a prospecting well or a monitoring well as a water well. To obtain departmental approval, the surface owner must submit a written request for transfer and evidence that the well has been completed in compliance with standards established by the board of water well contractors. The permittee remains responsible for proper management of the well and site until final bond release. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-223, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99.)

RECLAMATION

17.24.651

17.24.648 WATER RIGHTS AND REPLACEMENT (1) The permittee shall replace the water supply of any owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from surface or underground source if such supply has been affected by contamination, diminution, or interruption proximately resulting from strip or underground mine operation by the permittee. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-253, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.649 DISCHARGE OF WATER INTO UNDERGROUND MINES (1) Surface and ground waters must not be discharged, diverted, or allowed to infiltrate into existing underground mine workings. (History: 82-4-204, MCA; IMP, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.650 POSTMINING REHABILITATION OF SEDIMENTATION PONDS, DIVERSIONS, IMPOUNDMENTS, AND TREATMENT FACILITIES

(1) Before abandoning the permit area, the operator shall renovate all permanent sedimentation ponds, diversions, impoundments, and treatment facilities to meet criteria specified in the detailed design plan for the permanent structures and impoundments.

(2) All temporary sedimentation ponds, diversions, impoundments and treatment facilities must be regraded to the approximate original contour and reclaimed prior to abandonment of the permit area. (History: 82-4-204, MCA; IMP, 82-4-231, 82-4-232, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.651 STREAM CHANNEL DISTURBANCES AND BUFFER ZONES

(1) No land within 100 feet of a perennial stream or intermittent stream or a stream reach with a biological community determined according to (3) may be disturbed by strip or underground mining operations, nor may the stream itself be disturbed, except as approved in accordance with ARM 17.24.634 through 17.24.637 and 17.24.751, upon finding by the department that:

(a) the original stream function will be restored in accordance with ARM 17.24.634 and 17.24.751; and

(b) during and after the mining, the water quantity and quality and other environmental resources of the stream and the lands within 100 feet of the stream will not be adversely affected.

RECLAMATION

17.24.632

17.24.631 GENERAL HYDROLOGY REQUIREMENTS (1) The permittee shall plan and conduct mining and reclamation operations to minimize disturbance to the prevailing hydrologic balance and to prevent material damage to the prevailing hydrologic balance outside the permit area.

(2) Changes in water quality and quantity, in the depth to ground water, and in the location of surface water drainage channels must be minimized so that the postmining land use of the disturbed land is not adversely affected and applicable federal and state statutes and regulations are not violated.

(3)(a) The permittee shall conduct operations so as to minimize water pollution and shall, where necessary, use treatment methods to control water pollution. The permittee shall emphasize mining and reclamation practices that will prevent or minimize water pollution. Diversions of drainages must be used in preference to the use of water treatment facilities.

(b) Practices to control and minimize pollution include, but are not limited to, stabilizing disturbed areas through land shaping, diverting runoff, achieving quickly germinating and growing stands of temporary vegetation, regulating channel velocity of water, lining drainage channels with rock or vegetation, mulching, selectively placing and sealing acid-forming and toxic-forming materials, and selectively placing waste materials in backfill areas.

(4) If pollution can be controlled only by treatment, the permittee shall operate and maintain the necessary water treatment facilities for as long as treatment is required. The department may specify which practices, used to minimize water pollution, may be used on a permanent basis. (History: 82-4-204; MCA; IMP, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

17.24.632 PERMANENT SEALING OF DRILLED HOLES (1) When no longer needed for its intended use as approved by the department and if not transferred as a water well under ARM 17.24.647, each prospecting hole, other drilled hole, borehole, or well must be abandoned according to the procedures described in ARM 17.24.1005. Other exposed underground openings must also be abandoned in accordance with ARM 17.24.1005 or, with department approval, be cased, sealed, or otherwise managed to prevent acid or other toxic drainage from entering the ground or surface waters, to minimize disturbance to the prevailing hydrologic balance, and to ensure safety of people, livestock, fish and wildlife, and machinery in the permit area and adjacent areas. (History: 82-4-204, MCA; IMP, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 811, Eff. 4/23/99.)

Subchapter 11

Strip and Underground Mine Reclamation Act:
Bonding, Insurance, Reporting, and Special Areas

17.24.1101 BONDING: DEFINITIONS For purposes of this rule, the following definitions apply:

(1) "Surety bond" means an indemnity agreement in a sum certain payable to the department executed by the permittee which is supported by the performance guarantee of a corporation licensed to do business as a surety in Montana.

(2) "Collateral bond" means an indemnity agreement in a sum certain payable to the department executed by the permittee and which is supported by the deposit with the department of cash, negotiable bonds of the United States, state or municipalities, negotiable certificates of deposit or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States.

(History: 82-4-204, 82-4-205, MCA; IMP, 82-4-223, 82-4-232, 82-4-235, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

17.24.1102 BONDING: DETERMINATION OF BOND AMOUNT The standard applied by the department in determining the amount of performance bond is the estimated cost to the department if it had to perform the reclamation, restoration, and abatement work required of an operator or a prospecting permittee under the Act, the rules adopted thereunder, and the permit. This amount is based on, but not limited to:

(1) the estimated costs submitted by the permittee in accordance with ARM 17.24.313 and, if applicable, costs estimated by using current machinery production handbooks and publications or other documented costs acceptable to the department;

(2) the additional estimated costs to the department which may arise from applicable public contracting requirements or the need to bring personnel and equipment to the permit area after its abandonment by the permittee to perform reclamation, restoration, and abatement work;

(3) all additional estimated costs necessary, expedient, and incident to the satisfactory completion of the requirements identified in this rule;

(4) an additional amount based on factors of cost changes during the preceding five years for the types of activities associated with the reclamation to be performed; and

(5) such other cost information as may be required by or available to the department. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-223, 82-4-232, 82-4-235, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

Coal Bond Report

Sort Order = 2 Permittee, Permit ID, Bond Type, Bond Number

Report Selection: Permit ID Type = C; Bond Type = CA, CS; Bond Status = AC; County = BIG, MUS, RIC, ROS; Bonds Held by US

Permit ID	Permittee Name	Site Name	Type	Company	Bond Number	Amount	Status	County
Big Sky Coal Company								
CI983004CR	Big Sky Coal Company	Big Sky Coal Mine Area	CS	National Fire Insurance	9264180	\$10,391,269.15	AC	Rosebud
CI988004B	Big Sky Coal Company	Big Sky Coal Mine Area	CS	Travelers Casualty and Surety	105243350	\$2,548,291.00	AC	Rosebud
CI988004B	Big Sky Coal Company	Big Sky Coal Mine Area	CS	Travelers Casualty and Surety	105243359	\$3,469,987.00	AC	Rosebud
CI988004B	Big Sky Coal Company	Big Sky Coal Mine Area	CS	Seaboard Surety Company	239912	\$820,638.00	AC	Rosebud
CI988004B	Big Sky Coal Company	Big Sky Coal Mine Area	CS	Seaboard Surety Company	336151	\$719,774.00	AC	Rosebud
						\$17,949,959.15		
Decker Coal Company								
CI983007	Decker Coal Company	East Decker Coal Mine	CS	Travelers Casualty & Surety Co	103475299	\$68,546,782.00	AC	Big Horn
CI987001C	Decker Coal Company	West Decker Coal Mine	CS	Travelers Casualty and Surety	103475301	\$77,688,987.00	AC	Big Horn
						\$146,235,769.00		
Signal Peak Energy								
CI992017	Signal Peak Energy	Bull Mountain Coal Mine	CS	Travelers Casualty & Surety	105024982	\$11,700,000.00	AC	Musselshell
						\$11,700,000.00		
Spring Creek Coal, LLC								
CI979012	Spring Creek Coal, LLC	Spring Creek Coal Mine	CS	U.S. Specialty Insurance	1000836386	\$20,000,000.00	AC	Big Horn
CI979012	Spring Creek Coal, LLC	Spring Creek Coal Mine	CS	Western Surety Company	22231238	\$25,000,000.00	AC	Big Horn
CI979012	Spring Creek Coal, LLC	Spring Creek Coal Mine	CS	Zurich American Insurance	8991122	\$54,631,925.00	AC	Big Horn
CI979012	Spring Creek Coal, LLC	Spring Creek Coal Mine	CS	Argonaut Insurance Company	SUR0000377	\$10,000,000.00	AC	Big Horn
						\$109,631,925.00		
Western Energy Company								
CI981003E	Western Energy	Rosebud Coal Mine Area	CS	Travelers Casualty and Surety	64S103557515BCM	\$1,268,888.00	AC	Rosebud
CI984003B	Western Energy	Rosebud Coal Mine Area	CS	Travelers Casualty and Surety	64S103557527BCM	\$34,225,729.00	AC	Rosebud
CI984003B	Western Energy	Rosebud Coal Mine Area	CS	XL Specialty Insurance Co. &	SB0072847	\$14,177,967.00	AC	Rosebud
CI985003C	Western Energy	Rosebud Coal Mine Area	CS	Travelers Casualty and Surety	642103557516BCM	\$41,755,536.00	AC	Rosebud
CI985003C	Western Energy	Rosebud Coal Mine Area	CS	Travelers Casualty and Surety	64S104717941BCM	\$2,408,831.00	AC	Rosebud
CI985003C	Western Energy	Rosebud Coal Mine Area	CS	Travelers Casualty and Surety	64S104991976BCM	\$1,695,547.00	AC	Rosebud
CI985003C	Western Energy	Rosebud Coal Mine Area	CS	RLI Insurance Company	RLB0012315	\$10,347,367.00	AC	Rosebud
CI986003A	Western Energy	Rosebud Coal Mine Area	CS	XL Specialty Insurance Co. &	SB0072848	\$18,202,793.00	AC	Rosebud
CI986003D	Western Energy	Rosebud Coal Mine Area	CS	Travelers Casualty and Surety	64S103644309BCM	\$9,739,677.00	AC	Rosebud
CI986003D	Western Energy	Rosebud Coal Mine Area	CS	XL Specialty Insurance Co. &	SB0072849	\$18,921,305.00	AC	Rosebud
						\$172,743,040.00		

Westmoreland Resources, Inc.

C1985005	Westmoreland	Absaloka Coal Mine	CS	Travelers Casualty and Surety Co	64S1039/4869BCM	\$10,032,911.00	AC	Big Horn
C1985005	Westmoreland	Absaloka Coal Mine	CS	Travelers Casualty and Surety	64S104737430BCM	\$8,521,445.00	AC	Big Horn
C1985005	Westmoreland	Absaloka Coal Mine	CS	RLI Insurance Company	RLB0012626	\$3,290,415.00	AC	Big Horn
Westmoreland Savage Corp						\$21,847,831.00		
C1984002	Westmoreland Savage	Savage Coal Mine	CS	Travelers Casualty and Surety	64S103557524BCM	\$3,212,879.21	AC	Richland
Grand Total						\$3,212,879.21		
						\$3,212,879.21		

12/6/2010